

## **Senate Bill No. 1469**

### **CHAPTER 603**

An act to amend Sections 19801, 19830, 19834, 19834A, 19851, 19851A, and 19872 of, and to add Section 19851.5 to, the Business and Professions Code, relating to gambling.

[Approved by Governor September 18, 1998. Filed  
with Secretary of State September 21, 1998.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

**SB 1469, Knight. Gambling.**

(1) Existing law, the Gambling Control Act, makes various findings and declarations regarding the effects of gambling, the policy of the state, and the purposes of the act.

This bill would make technical, nonsubstantive changes to these provisions.

(2) Existing law authorizes the Division of Gambling Control to, subject to specified conditions, adopt certain implementing regulations related to the Gambling Control Act within 90 days of the effective date of that act. Existing law also provides that, except as expressly provided, these implementing regulations cease to be valid after September 1, 1998, unless readopted.

This bill would authorize the division to amend or repeal, or both amend and repeal, specific categories of previously adopted implementing regulations until January 31, 1999.

(3) Existing law requires the Division of Gambling Control, or its successor, the Gambling Control Commission, to issue regulations concerning a wide range of subjects relating to the operation and licensing of gambling establishments, including provisions governing the extension of credit and the cashing of checks and other negotiable instruments.

This bill would require gambling establishments to forward copies of all dishonored or uncollectible checks to the division or commission on a quarterly basis.

(4) Existing law requires the division to deny a gambling license with respect to any gambling establishment that is located in a local jurisdiction lacking an ordinance governing specified matters, including the hours, location, betting limits, and maximum number of tables. Existing law generally requires that any change to an existing ordinance which would result in the expansion of gambling be approved in a local election, but provides an exception for the amendment of existing ordinances to govern these specified matters. Upon the enactment of a statute appropriating funds, or on January 1, 1999, however, the Gambling Control Commission would assume

licensing authority and this exception would be deleted. Existing law also provides that no local ordinance that was in effect on January 1, 1996, that authorizes legal gaming may be amended to expand gaming in that jurisdiction until January 1, 2001. Existing law also requires, as a general matter, that licensed gambling establishments be open to the public.

This bill would allow local jurisdictions to, if a local election is required, add provisions concerning these specified matters to a local gambling ordinance until January 1, 2002. This bill would also provide that a gambling establishment that met all applicable state and local gaming registration requirements, and operated as a private club on December 31, 1997, under a local ordinance which only authorized private clubs, may be licensed by the division to operate as a private club until July 1, 2000, or until the ownership or operation of the club changes after a specified date, provided it operates less than 5 tables, retains videotape records, and is open only to members and their spouses meeting specified membership criteria. This bill would provide that after this date, the gambling establishment may continue to operate on a public basis, but only if the local jurisdiction in which it is located has adopted, pursuant to specified provisions of law, an ordinance authorizing gambling establishments open to the public. The bill would require the commission to adopt regulations implementing these provisions.

(5) Under existing law, if the Division of Gambling Control denies a license to an individual owner of any security issued by a corporation that applies for or holds an owner license, the owner of the security is required to offer the security to the issuing corporation which is required to purchase the security for an amount not greater than fair market value, within 30 calendar days after the date of the offer.

This bill would add the requirement that the security offered be purchased for book value in cash as provided for in the corporation's articles of incorporation or bylaws, but in no event in an amount greater than fair market value within that period of time. Additionally, the bill would require that, if the fair market value, or book value as provided for in the articles of incorporation or bylaws exceeds \$1,000,000, the division may allow a period of time not to exceed 90 days for the purchase.

*The people of the State of California do enact as follows:*

SECTION 1. Section 19801 of the Business and Professions Code is amended to read:

19801. The Legislature hereby finds and declares all of the following:

(a) The longstanding public policy of this state disfavors the business of gambling. State law prohibits commercially operated



lotteries, banked or percentage games, and gambling machines, and strictly regulates parimutuel wagering on horse racing. To the extent that state law categorically prohibits certain forms of gambling and prohibits gambling devices, nothing herein shall be construed, in any manner, to reflect a legislative intent to relax those prohibitions.

(b) Gambling can become addictive and should not be promoted or legitimized as entertainment for children and families.

(c) Unregulated gambling enterprises are inimical to the public health, safety, welfare, and good order. Accordingly, no person in this state has a right to operate a gambling enterprise except as may be expressly permitted by the laws of this state and by the ordinances of local governmental bodies.

(d) It is the policy of this state that gambling activities that are not expressly prohibited or regulated by state law may be prohibited or regulated by local government. Moreover, it is the policy of this state that no new cardroom may be opened in a city, county, or city and county in which a cardroom was not operating on and before January 1, 1984, except upon the affirmative vote of the electors of that city, county, or city and county.

(e) It is not the purpose of this chapter to expand opportunities for gambling, or to create any right to operate a gambling enterprise in this state or to have a financial interest in any gambling enterprise. Rather, it is the purpose of this chapter to regulate businesses that offer otherwise lawful forms of gambling games.

(f) Public trust that permissible gambling will not endanger public health, safety, or welfare requires that comprehensive measures be enacted to ensure that such gambling is free from criminal and corruptive elements, that it is conducted honestly and competitively, and that it is conducted in suitable locations.

(g) Public trust and confidence can only be maintained by strict and comprehensive regulation of all persons, locations, practices, associations, and activities related to the operation of lawful gambling establishments and the manufacture or distribution of permissible gambling equipment.

(h) All gambling operations, all persons having a significant involvement in gambling operations, all establishments where gambling is conducted, and all manufacturers, sellers, and distributors of gambling equipment must be licensed and regulated to protect the public health, safety, and general welfare of the residents of this state as an exercise of the police powers of the state.

(i) To ensure that gambling is conducted honestly, competitively, and free of criminal and corruptive elements, all licensed gambling establishments in this state must remain open to the general public and the access of the general public to licensed gambling activities must not be restricted in any manner, except as provided by the Legislature. However, subject to state and federal prohibitions against discrimination, nothing herein shall be construed to preclude

the exclusion of unsuitable persons from licensed gambling establishments in the exercise of reasonable business judgment.

(j) In order to effectuate state policy as declared herein, it is necessary that gambling establishments, activities, and equipment be licensed, that persons participating in those activities be licensed or registered, that certain transactions, events, and processes involving gambling establishments and owners of gambling establishments be subject to prior approval or permission, that unsuitable persons not be permitted to associate with gambling activities or gambling establishments, and that gambling activities take place only in suitable locations. Any license or permit issued, or other approval granted pursuant to this chapter, is declared to be a revocable privilege, and no holder acquires any vested right therein or thereunder.

(k) The location of lawful gambling premises, the hours of operation of those premises, the number of tables permitted in those premises, and wagering limits in permissible games conducted in those premises are proper subjects for regulation by local governmental bodies. However, consideration of those same subjects by a state regulatory agency, as specified in this chapter, is warranted when local governmental regulation respecting those subjects is inadequate or the regulation fails to safeguard the legitimate interests of residents in other governmental jurisdictions.

(l) The exclusion or ejection of certain persons from gambling establishments is necessary to effectuate the policies of this chapter and to maintain effectively the strict regulation of licensed gambling.

(m) Records and reports of cash and credit transactions involving gambling establishments may have a high degree of usefulness in criminal and regulatory investigations and, therefore, licensed gambling operators may be required to keep records and make reports concerning significant cash and credit transactions.

SEC. 2. Section 19830 of the Business and Professions Code is amended to read:

19830. (a) The division may adopt regulations for the administration and enforcement of this chapter. To the extent appropriate, regulations of the division shall take into consideration the operational differences of large and small establishments. The board may adopt regulations relating to its internal procedures that may be required and that are not inconsistent with this chapter.

(b) Subject to subdivision (d), Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the following regulations of the division, if adopted within 90 days after the effective date of this chapter. The division may, however, amend or repeal, or both amend and repeal, until January 31, 1999, those regulations which were previously adopted pursuant to this subdivision:



(1) Regulations described in subdivisions (a), (b), (e), (g), (h), (i) to (n), inclusive, (p), and (q) of Section 19834.

(2) Regulations adopted for the purpose of implementing Section 62 of the act that enacted this chapter.

(c) Any regulation adopted pursuant to subdivision (b) shall be filed with the Secretary of State and shall be effective immediately upon that filing.

(d) Except as otherwise provided in this subdivision, no regulation adopted pursuant to subdivision (b) shall be valid after September 1, 1998, unless the regulation has been subsequently readopted by the division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, subject to all of the following:

(1) This subdivision does not apply to a regulation that is exempted from Article 5 (commencing with Section 11346) of Chapter 3.5 of Division 3 of Title 2 of the Government Code, by operation of subdivision (a) of Section 11346.1 of the Government Code.

(2) If, prior to September 1, 1998, the division has mailed a notice described in Section 11346.4 of the Government Code with respect to a regulation adopted pursuant to subdivision (b), the regulation shall not cease to be effective pursuant to this subdivision until the earlier of one of the following events:

(A) The readopted regulation is filed with the Secretary of State pursuant to subdivision (a) of Section 11349.3, or subdivision (e) of Section 11349.5, of the Government Code.

(B) The readopted regulation has been disapproved by the Office of Administrative Law and the time within which a request for review may be filed pursuant to Section 11349.5 of the Government Code has expired.

(C) The readopted regulation is disapproved by the Office of Administrative Law, and the Governor transmits a decision pursuant to subdivision (c) of Section 11349.5 of the Government Code affirming the disapproval.

SEC. 3. Section 19834 of the Business and Professions Code is amended to read:

19834. The regulations adopted by the division shall do all of the following:

(a) With respect to applications, registrations, investigations, and fees, the regulations shall include, but not be limited to, provisions that do all of the following:

(1) Prescribe the method and form of application and registration.

(2) Prescribe the information to be furnished by any applicant, licensee, or registrant concerning, as appropriate, the person's personal history, habits, character, associates, criminal record, business activities, organizational structure, and financial affairs, past or present.

(3) Prescribe the information to be furnished by an owner licensee relating to the licensee's gambling employees.

(4) Require fingerprinting or other methods of identification of an applicant, licensee, or employee of a licensee.

(5) Prescribe the manner and method of collection and payment of fees and issuance of licenses.

(b) Provide for the approval of game rules and equipment by the division to ensure fairness to the public and compliance with state laws.

(c) Implement the provisions of this chapter relating to licensing.

(d) Require owner licensees to report and keep records of transactions, as determined by the division, involving cash or credit. The regulations may include, without limitation, regulations requiring owner licensees to file with the division reports similar to those required by Sections 5313 and 5314 of Title 31 of the United States Code, and by Sections 103.22 and 103.23 of Title 31 of the Code of Federal Regulations, and any successor provisions thereto, from financial institutions, as defined in Section 5312 of Title 31 of the United States Code and Section 103.11 of Title 31 of the Code of Federal Regulations, and any successor provisions.

(e) Provide for the receipt of protests and written comments on an application by public agencies, public officials, local governing bodies, or residents of the location of the gambling establishment or future gambling establishment.

(f) Provide for the disapproval of advertising by licensed gambling establishments that is determined by the division to be deceptive to the public. Regulations adopted by the division for advertising by licensed gambling establishments shall be consistent with the advertising regulations adopted by the California Horse Racing Board and the Lottery Commission. Advertisement that appeals to children or adolescents, or offers gambling as a means of becoming wealthy is presumptively deceptive.

(g) Govern all of the following:

(1) The extension of credit.

(2) The cashing, deposit, and redemption of checks or other negotiable instruments.

(3) The verification of identification in monetary transactions.

(h) Prescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs, which shall include, but not be limited to, provisions for all of the following:

(1) The safeguarding of assets and revenues, including the recording of cash and evidences of indebtedness.

(2) Prescribing the manner in which compensation from games and gross revenue shall be computed and reported by an owner licensee.



(3) The provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the division.

(i) Provide for the adoption and use of internal audits, whether by qualified internal auditors or by certified public accountants. As used in this subdivision, “internal audit” means a type of control that operates through the testing and evaluation of other controls and that is also directed toward observing proper compliance with the minimum standards of control prescribed in subdivision (h).

(j) Require periodic financial reports from each owner licensee.

(k) Specify standard forms for reporting financial conditions, results of operations, and other relevant financial information.

(l) Formulate a uniform code of accounts and accounting classifications to ensure consistency, comparability, and effective disclosure of financial information.

(m) Prescribe intervals at which the information in subdivisions (j) and (k) shall be furnished to the division.

(n) Require audits to be conducted, in accordance with generally accepted auditing standards, of the financial statements of all owner licensees whose annual gross revenues equal or exceed a specified sum. However, nothing herein shall be construed to limit the division’s authority to require audits of any owner licensee. Audits, compilations, and reviews provided for in this subdivision shall be made by independent certified public accountants licensed to practice in this state.

(o) Restrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of this chapter.

(p) Define and limit the area, games, and equipment permitted, or the method of operation of games and equipment, when, at the request of a sheriff or district attorney, the division determines that local regulation of these subjects is insufficient to protect the health, safety, or welfare of residents in geographical areas proximate to a gambling establishment.

(q) Prohibit gambling establishments from cashing checks drawn against any federal, state, or county fund, including, but not limited to, social security, unemployment insurance, disability payments, or public assistance payments.

However, a gambling establishment shall not be prohibited from cashing any payroll checks or checks for the delivery of goods or services that are drawn against a federal, state, or county fund.

Gambling establishments shall send the division copies of all dishonored or uncollectible checks at the end of each quarter. In order to ensure that those who patronize gambling establishments are responsible for their debts, the division shall disseminate information relating to dishonored or uncollectible checks to other gambling establishments in that geographical area.

SEC. 4. Section 19834A of the Business and Professions Code is amended to read:

19834A. The regulations adopted by the commission shall do all of the following:

(a) With respect to applications, registrations, investigations, and fees, the regulations shall include, but not be limited to, provisions that do all of the following:

(1) Prescribe the method and form of application and registration.

(2) Prescribe the information to be furnished by any applicant, licensee, or registrant concerning, as appropriate, the person's personal history, habits, character, associates, criminal record, business activities, organizational structure, and financial affairs, past or present.

(3) Prescribe the information to be furnished by an owner licensee relating to the licensee's gambling employees.

(4) Require fingerprinting or other methods of identification of an applicant, licensee, or employee of a licensee.

(5) Prescribe the manner and method of collection and payment of fees and issuance of licenses.

(b) Provide for the approval of game rules and equipment by the division to ensure fairness to the public and compliance with state laws.

(c) Implement the provisions of this chapter relating to licensing.

(d) Require owner licensees to report and keep records of transactions, as determined by the division, involving cash or credit. The regulations may include, without limitation, regulations requiring owner licensees to file with the division reports similar to those required by Sections 5313 and 5314 of Title 31 of the United States Code, and by Sections 103.22 and 103.23 of Title 31 of the Code of Federal Regulations, and any successor provisions thereto, from financial institutions, as defined in Section 5312 of Title 31 of the United States Code and Section 103.11 of Title 31 of the Code of Federal Regulations, and any successor provisions.

(e) Provide for the receipt of protests and written comments on an application by public agencies, public officials, local governing bodies, or residents of the location of the gambling establishment or future gambling establishment.

(f) Provide for the disapproval of advertising by licensed gambling establishments that is determined by the division to be deceptive to the public. Regulations adopted by the division for advertising by licensed gambling establishments shall be consistent with the advertising regulations adopted by the California Horse Racing Board and the Lottery Commission. Advertisement that appeals to children or adolescents or that offers gambling as a means of becoming wealthy is presumptively deceptive.

(g) Govern all of the following:

(1) The extension of credit.



(2) The cashing, deposit, and redemption of checks or other negotiable instruments.

(3) The verification of identification in monetary transactions.

(h) Prescribe minimum procedures for adoption by owner licensees to exercise effective control over their internal fiscal and gambling affairs, which shall include, but not be limited to, provisions for all of the following:

(1) The safeguarding of assets and revenues, including the recording of cash and evidences of indebtedness.

(2) Prescribing the manner in which compensation from games and gross revenue shall be computed and reported by an owner licensee.

(3) The provision of reliable records, accounts, and reports of transactions, operations, and events, including reports to the division.

(i) Provide for the adoption and use of internal audits, whether by qualified internal auditors or by certified public accountants. As used in this subdivision, “internal audit” means a type of control that operates through the testing and evaluation of other controls and that is also directed toward observing proper compliance with the minimum standards of control prescribed in subdivision (h).

(j) Require periodic financial reports from each owner licensee.

(k) Specify standard forms for reporting financial conditions, results of operations, and other relevant financial information.

(l) Formulate a uniform code of accounts and accounting classifications to ensure consistency, comparability, and effective disclosure of financial information.

(m) Prescribe intervals at which the information in subdivisions (j) and (k) shall be furnished to the division.

(n) Require audits to be conducted, in accordance with generally accepted auditing standards, of the financial statements of all owner licensees whose annual gross revenues equal or exceed a specified sum. However, nothing herein shall be construed to limit the division’s authority to require audits of any owner licensee. Audits, compilations, and reviews provided for in this subdivision shall be made by independent certified public accountants licensed to practice in this state.

(o) Restrict, limit, or otherwise regulate any activity that is related to the conduct of controlled gambling, consistent with the purposes of this chapter.

(p) Define and limit the area, games, hours of operation, number of tables, wagering limits, and equipment permitted, or the method of operation of games and equipment, if the division determines that local regulation of these subjects is insufficient to protect the health, safety, or welfare of residents in geographical areas proximate to a gambling establishment.

(q) Prohibit gambling establishments from cashing checks drawn against any federal, state, or county fund, including, but not limited

to, social security, unemployment insurance, disability payments, or public assistance payments. However, a gambling establishment shall not be prohibited from cashing any payroll checks or checks for the delivery of goods or services that are drawn against a federal, state, or county fund.

Gambling establishments shall send the commission copies of all dishonored or uncollectible checks at the end of each quarter.

(r) Provide for standards, specifications, and procedures governing the manufacture, distribution, including the sale and leasing, inspection, testing, location, operation, repair, and storage of gambling equipment, and for the licensing of persons engaged in the business of manufacturing, distributing, including the sale and leasing, inspection, testing, repair, and storage of gambling equipment.

SEC. 5. Section 19851 of the Business and Professions Code is amended to read:

19851. (a) The division shall deny a gambling license with respect to any gambling establishment that is located in a city, county, or city and county that does not have an ordinance governing all of the following matters:

- (1) The hours of operation of gambling establishments.
- (2) Patron security and safety in and around the gambling establishments.
- (3) The location of gambling establishments.
- (4) Wagering limits in gambling establishments.
- (5) The number of gambling tables in each gambling establishment and in the jurisdiction.

(b) In any city, county, or city and county in which the local gambling ordinance does not govern the matters specified in subdivision (a), any amendment to the ordinance to govern those matters is not subject to Section 19950.1. If the ordinances require that a local election be conducted to add these matters to the ordinance, and the ordinance only provides for private clubs by vote of the people, then the city, county, or city and county may have until July 1, 2000, to have these matters contained in the local ordinance.

(c) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

SEC. 6. Section 19851A of the Business and Professions Code is amended to read:

19851A. (a) The commission shall deny a gambling license with respect to any gambling establishment that is located in a city, county, or city and county that does not have an ordinance governing all of the following matters:



- (1) The hours of operation of gambling establishments.
- (2) Patron security and safety in and around the gambling establishments.
- (3) The location of gambling establishments.
- (4) Wagering limits in gambling establishments.
- (5) The number of gambling tables in each gambling establishment and in the jurisdiction.

(b) In any city, county, or city and county in which the local gambling ordinance does not govern the matters specified in subdivision (a), any amendment to the ordinance to govern those matters is not subject to Section 19950.1, provided that a local election is required to add these matters, and the ordinance only provides for private clubs by vote of the people, and that the ordinance is amended to contain these matters on or before July 1, 2000.

(c) This section shall become operative on the occurrence of one of the events specified in Section 66 of the act that added this section to the Business and Professions Code.

SEC. 7. Section 19851.5 is added to the Business and Professions Code, to read:

19851.5. Notwithstanding subdivision (i) of Section 19801, the division or commission shall not deny a license to a gambling establishment solely because it is not open to the public, provided that all of the following are true: (a) the gambling establishment is situated in a local jurisdiction that has an ordinance allowing only private clubs, and the gambling establishment was in operation as a private club under that ordinance on December 31, 1997, and met all applicable state and local gaming registration requirements; (b) the gambling establishment consists of no more than five gaming tables; (c) videotaped recordings of the entrance to the gambling room or rooms and all tables situated therein are made during all hours of operation by means of closed circuit television cameras, and these tapes are retained for a period of 30 days and are made available for review by the division or commission upon request; and (d) the gambling establishment is open to members of the private club and their spouses in accordance with membership criteria in effect as of December 31, 1997.

A gambling establishment meeting these criteria, in addition to the other requirements of this chapter, may be licensed to operate as a private club gambling establishment until July 1, 2000, or until the ownership or operation of the gambling establishment changes from the ownership or operation as of January 1, 1998, whichever occurs first. Operation of the gambling establishments after this date shall only be permitted if the local jurisdiction approves an ordinance, pursuant to Sections 19950.1 and 19950.2, authorizing the operation of gambling establishments that are open to the public. The commission shall adopt regulations implementing this section.

SEC. 8. Section 19872 of the Business and Professions Code is amended to read:

19872. (a) If at any time the division denies a license to an individual owner of any security issued by a corporation that applies for or holds an owner license, the owner of the security shall immediately offer the security to the issuing corporation for purchase. The corporation shall purchase the security so offered, for book value in cash as provided for in the articles of incorporation or the bylaws, and in no event in an amount greater than fair market value, within 30 calendar days after the date of the offer. If the fair market value, or book value as provided for in the articles on incorporation or bylaws, exceeds one million dollars (\$1,000,000), the division may allow a period of time not to exceed 90 days for the purchase.

(b) Beginning upon the date when the division serves notice of the denial upon the corporation, it is unlawful for the denied security owner to do any of the following:

(1) Receive any dividend or interest upon any security described in subdivision (a).

(2) Exercise, directly or through any trustee or nominee, any voting right conferred by any security described in subdivision (a).

(3) Receive any remuneration in any form from the corporation for services rendered or for any other purpose.

(c) Every security issued by a corporate owner licensee shall bear a statement, on both sides of the certificate evidencing the security, of the restrictions imposed by this section.

(d) This section shall remain in effect only until the occurrence of one of the events specified in Section 66 of the act that added this chapter, and as of that date is repealed, unless a later enacted statute, which is enacted before the occurrence of one of the events specified in Section 66 of the act that added this chapter, deletes or extends that date.

